

(c) *Charitable contributions carryover of corporations*—(1) *Contributions made in taxable years beginning before January 1, 1962.* Subject to the rules set forth in subparagraph (3) of this paragraph, any contributions made by a corporation in a taxable year (hereinafter in this paragraph referred to as the contribution year) subject to the Code beginning before January 1, 1962, in excess of the amount deductible in such contribution year under the 5-percent limitation of section 170(b)(2) are deductible in each of the two succeeding taxable years in order of time, but only to the extent of the lesser of the following amounts:

(i) The excess of the maximum amount deductible for the succeeding year under the 5-percent limitation of section 170(b)(2) over the contributions made in that year; and

(ii) In the case of the first taxable year succeeding the contribution year, the amount of the excess contributions; and, in the case of the second taxable year succeeding the contribution year, the portion of the excess contributions not deductible in the first succeeding taxable year.

The application of the rules in this subparagraph may be illustrated by the following example:

Example. A corporation which reports its income on the calendar year basis makes a charitable contribution of \$10,000 in June 1961, anticipating taxable income for 1961 of \$200,000. Its actual taxable income (without regard to any deduction for charitable contributions) for 1961 is only \$50,000 and the charitable deduction for that year is limited to \$2,500 (5 percent of \$50,000). The excess charitable contribution not deductible in 1961 (\$7,500) represents a carryover potentially available as a deduction in the two succeeding taxable years. The corporation has taxable income (without regard to any deduction for charitable contributions) of \$150,000 in 1962 and makes a charitable contribution of \$2,500 in that year. For 1962, the corporation may deduct as a charitable contribution the amount of \$7,500 (5 percent of \$150,000). This amount consists first of the \$2,500 contribution made in 1962, and \$5,000 of the \$7,500 carried over from 1961. The remaining \$2,500 carried over from 1961 and not allowable as a deduction in 1962 because of the 5-percent limitation may be carried over to 1963. The corporation has taxable income (without regard to any deduction for charitable contributions) of \$100,000 in 1963 and makes a charitable contribution of \$3,000.

For 1963, the corporation may deduct under section 170 the amount of \$5,000 (5 percent of \$100,000). This amount consists first of the \$3,000 contributed in 1963, and \$2,000 of the \$2,500 carried over from 1961 to 1963. The remaining \$500 of the carryover from 1961 is not allowable as a deduction in any year because of the 2-year limitation with respect to excess contributions made in taxable years beginning before January 1, 1962.

(2) *Contributions made in taxable years beginning after December 31, 1961.* Subject to the rules set forth in subparagraph (3) of this paragraph, any contributions made by a corporation in a taxable year (hereinafter in this paragraph referred to as the contribution year) beginning after December 31, 1961, in excess of the amount deductible in such contribution year under the 5-percent limitation of section 170(b)(2) are deductible in each of the five succeeding taxable years in order of time, but only to the extent of the lesser of the following amounts:

(i) The excess of the maximum amount deductible for such succeeding taxable year under the 5-percent limitation of section 170(b)(2) over the sum of the contributions made in that year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this paragraph in such succeeding taxable year; or

(ii) In the case of the first taxable year succeeding the contribution year, the amount of the excess contributions, and in the case of the second, third, fourth, or fifth taxable years succeeding the contribution year, the portion of the excess contributions not deductible under this subparagraph for any taxable year intervening between the contribution year and such succeeding taxable year.

The application of the rules of this subparagraph may be illustrated by the following example:

Example. A corporation which reports its income on the calendar year basis makes a charitable contribution of \$20,000 in June 1964, anticipating taxable income for 1964 of \$400,000. Its actual taxable income (without regard to any deduction for charitable contributions) for 1964 is only \$100,000 and the charitable deduction for that year is limited to \$5,000 (5 percent of \$100,000). The excess charitable contribution not deductible in

1964 (\$15,000) represents a carryover potentially available as a deduction in the five succeeding taxable years. The corporation has taxable income (without regard to any deduction for charitable contributions) of \$150,000 in 1965 and makes a charitable contribution of \$5,000 in that year. For 1965 the corporation may deduct as a charitable contribution the amount of \$7,500 (5 percent of \$150,000). This amount consists first of the \$5,000 contribution made in 1965, and \$2,500 carried over from 1964. The remaining \$12,500 carried over from 1964 and not allowable as a deduction for 1965 because of the 5-percent limitation may be carried over to 1966. The corporation has taxable income (without regard to any deduction for charitable contributions) of \$200,000 in 1966 and makes a charitable contribution of \$5,000. For 1966, the corporation may deduct the amount of \$10,000 (5 percent of \$200,000). This amount consists first of the \$5,000 contributed in 1966, and \$5,000 of the \$12,500 carried over from 1964 to 1966. The remaining \$7,500 of the carryover from 1964 is available for purposes of computing the charitable contributions carryover from 1964 to 1967, 1968, and 1969.

(3) *Reduction of excess contributions.* A corporation having a net operating loss carryover (or carryovers) must apply the special rule of section 170(b)(3) and this subparagraph before computing under subparagraph (1) or (2) of this paragraph the charitable contributions carryover for any taxable year subject to the Internal Revenue Code of 1954. In determining the amount of charitable contributions that may be deducted in accordance with the rules set forth in subparagraph (1) or (2) of this paragraph in taxable years succeeding the contribution year, the excess of contributions made by a corporation in the contribution year over the amount deductible in such year must be reduced by the amount by which such excess reduces taxable income (for purposes of determining the net operating loss carryover under the second sentence of section 172(b)(2) and increases a net operating loss carryover to a succeeding taxable year. Thus, if the excess of the contributions made in a taxable year over the amount deductible in the taxable year is utilized to reduce taxable income (under the provisions of section 172(b)(2)) for such year, thereby serving to increase the amount of the net operating loss carryover to a succeeding year or years, no charitable contributions carryover will be allowed. If only a portion of the excess

charitable contributions is so used, the charitable contributions carryover will be reduced only to that extent. The application of the rules of this subparagraph may be illustrated by the following example:

Example. A corporation which reports its income on the calendar year basis makes a charitable contribution of \$10,000 during the taxable year 1960. Its taxable income for 1960 is \$80,000 (computed without regard to any net operating loss deduction and computed in accordance with section 170(b)(2) without regard to any deduction for charitable contributions). The corporation has a net operating loss carryover from 1959 of \$80,000. In the absence of the net operating loss deduction the corporation would have been allowed a deduction for charitable contributions of \$4,000 (5 percent of \$80,000). After the application of the net operating loss deduction the corporation is allowed no deduction for charitable contributions, and there is a tentative charitable contribution carryover of \$10,000. For purposes of determining the net operating loss carryover to 1961 the corporation computes its taxable income for its prior taxable year 1960 under section 172(b)(2) by deducting the \$4,000 charitable contribution. Thus, after the \$80,000 net operating loss carryover is applied against the \$76,000 of taxable income for 1960 (computed in accordance with section 172(b)(2)), there remains a \$4,000 net operating loss carryover to 1961. Since the application of the net operating loss carryover of \$80,000 from 1959 reduces the taxable income for 1960 to zero, no part of the \$10,000 of charitable contributions in that year is deductible under section 170(b)(2). However, in determining the amount of the allowable charitable contributions carryover to the taxable years 1961 and 1962, the \$10,000 must be reduced by the portion thereof (\$4,000) which was used to reduce taxable income for 1960 (as computed for purposes of the second sentence of section 172(b)(2)) and which thereby served to increase the net operating loss carryover to 1961 from zero to \$4,000.

(4) *Year contribution is made.* For purposes of this paragraph, contributions made by a corporation in a contribution year include contributions which, in accordance with the provisions of section 170(a)(2) and paragraph (b) of this section, are considered as paid during such contribution year.

(5) *Effect of net operating loss carryback to contribution year.* The amount of the excess contribution for a contribution year (computed as provided in this paragraph) shall not be increased because a net operating loss